

DUMPING AND COUNTERVAILING DUTIES ACT 1988

DUMPING APPLICATION

**NON-CONFIDENTIAL
INITIATION REPORT**

**REFRIGERATOR-FREEZERS AND REFRIGERATORS
FROM KOREA**

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ABBREVIATIONS

The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
Amendment Act (the)	Dumping and Countervailing Duties Amendment Act 1994
Anti-Dumping Agreement	WTO Agreement on Implementation of Article VI of the GATT 1994
Chief Executive	Chief Executive of the Ministry of Economic Development
CIF	Cost, Insurance and Freight
EBIT	Earnings Before Interest and Tax
F&P	Fisher & Paykel Ltd
FOB	Free on Board
LDC	Less Developed Countries
LG	LG Electronics
LLDC	Least Developed Countries
Ministry (the)	Ministry of Economic Development
NZCS	New Zealand Customs Service
Pac	Forum Island Members of the South Pacific Regional Trade and Economic Cooperation Agreement
Samsung	Samsung Electronics
VFD	Value for Duty
WTO	World Trade Organisation
YEM	Year Ended March
	Indicates Confidential Information

1. PROCEEDINGS

1.1 PROCEEDINGS

1.1.1 On 7 November 2000, the Ministry of Economic Development accepted a properly documented application from Fisher & Paykel Ltd (F&P), alleging that imports of household type refrigerators and refrigerator-freezers from Korea were being dumped and by reason thereof causing and threatening to cause material injury to the New Zealand industry.

1.1.2 In accordance with section 10 of the Dumping and Countervailing Duties Act 1988 (hereinafter also referred to as “the Act”), the Chief Executive of the Ministry of Economic Development (“Chief Executive”) may, on receipt of an application from the industry, initiate an investigation to determine both the existence and effect of any alleged dumping of any goods on being satisfied that sufficient evidence has been provided that:

- (a) the goods imported or intended to be imported into New Zealand are being dumped; and
- (b) by reason thereof material injury to an industry has been or is being caused or is threatened or the establishment of an industry has been or is being materially retarded.

1.1.3 In considering an application, the Chief Executive is required to be satisfied that there is evidence going beyond mere assertion and of a nature and extent that indicates a likelihood of dumping and resultant material injury, and requiring investigation. The evidence is to be scrutinised with due scepticism, bearing in mind the commercial context, and the Chief Executive is to be satisfied of the sufficiency of the evidence, not of dumping or material injury.

Basis for the Application

1.1.4 F&P claims that as a result of the alleged dumping, material injury is resulting from:

- increased volume of the allegedly dumped imports;
- price undercutting, price depression, and price suppression,

and is resulting in:

- decline in sales;
- decline in market share;
- decline in profits;
- decline in return on investments.

1.1.5 F&P has stated in its application that the material injury resulting from the importation of allegedly dumped goods commenced in the year ended March 2000.

1.1.6 F&P has requested the imposition of provisional anti-dumping duties to prevent material injury being caused during the investigation. Provisional anti-dumping duties may be imposed no earlier than 60 days after initiation of an investigation if the Minister has reasonable cause to believe that the imported goods are being dumped and are causing or threatening to cause material injury to an industry, and the Minister is satisfied that action is necessary to prevent material injury being caused during the period of investigation.

1.1.7 It should be noted that the Ministry approaches investigations on the basis that injury and threat of injury are alternatives, i.e. an industry is either injured or threatened with injury, but both cannot apply at the same time.

1.2 INTERESTED PARTIES

New Zealand Industry

1.2.1 The application was submitted by F&P, the sole New Zealand producer of refrigerators and refrigerator-freezers. F&P is a wholly owned subsidiary of the listed company Fisher & Paykel Industries Ltd.

Importers and Exporters

Exporters

1.2.2 F&P has identified the following exporters from Korea as allegedly dumping refrigerators and refrigerator-freezers:

Samsung Electronics (Samsung); and
LG Electronics (LG)

1.2.3 Customs data for the year ended 31 October 2000 lists the following as suppliers of refrigerators and refrigerator-freezers originating from Korea:

Samsung Co Ltd
Samsung Electronics
Daewoo Electronics Comp Co Ltd
NEC Australia Pty Ltd
Samsung Aust Pty Ltd
LG Electronics Inc
LG International Corp
LG Electronics Ltd
Daewoo Electronics Co Ltd
Kim Kyung Hwa
Sung IL Timber Co
The Navitit Resort
Jumbo Electronics Co Ltd

Importers

1.2.4 F&P believes the following companies are importing refrigerators and refrigerator-freezers from Korea:

Radiola Corporation

LM Rankine Trading Corporation Ltd
Email New Zealand Ltd

- 1.2.5 Customs data for the year ended 31 October 2000 shows the following as importers of refrigerators and refrigerator-freezers originating from Korea:

Casmor International Ltd
Cavit & Co Ltd
Email Appliances (NZ) Ltd
Fisher & Paykel Ltd
Ho Ban Restaurant
LM Rankine Trading Co Ltd
NEC Australia Pty Ltd
Pacific Providers Ltd
Radiola Corporation Ltd
Sung IL Timber Corporation NZ Ltd
Whirlpool Australia Ltd

- 1.2.6 Due to the number of suppliers and importers identified, should an investigation be initiated it is intended to specifically investigate those suppliers (and their associated importers) representing the top 98 percent of imports (by volume) of the subject goods over the year ended October 2000. In making this calculation the various Samsung, LG and Daewoo companies listed in the NZCS data have been treated as one entity. All other suppliers and importers will have the opportunity to provide submissions but these will not be directly solicited.

- 1.2.7 Suppliers and importers falling into the above category are as follows:

Exporters

Samsung
LG
Daewoo

Importers

LM Rankine Trading Co Ltd
Email Appliances (NZ) Ltd
Radiola Corporation Ltd
Whirlpool Australia Ltd
Fisher & Paykel Ltd
Casmor International Ltd

- 1.2.8 Any investigation will need to establish the extent to which the parties listed are importing the goods subject to this application. In addition, the investigation will need to establish whether such goods have any degree of manufacture in the country of export, or whether they are merely trans-shipped.

1.3 **IMPORTED GOODS**

- 1.3.1 The goods which are the subject of the application, hereinafter referred to as or "subject goods", are:

Household type combined refrigerator-freezers fitted with separate top and bottom external doors or drawers up to and including a total gross volume of 500 litres and single door refrigerators with a total gross volume of not less than 60 litres, the capacities determined by standard AS/NZS4474.1997

1.3.2 The New Zealand Customs Service (NZCS) has stated that the subject goods enter under the following tariff classifications:

8418	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other: heat pumps other than air conditioning machines of heading No. 84.15
8418.10.00	- Combined refrigerator-freezers, fitted with separate external doors
	. . . Compression type:
02C	. . . Less than 200 litres gross internal capacity
05H	. . . 200 litres and over but less than 300 litres gross internal capacity
07D	. . . 300 litres and over but less than 400 litres gross internal capacity
11B	. . . 400 litres and over but less than 500 litres gross internal capacity
14G	. . . 500 litres and over gross internal capacity
8418.21.00	Refrigerators, household type:
	. . . Compression type:
01C	. . . Less than 200 litres gross internal capacity
03K	. . . 200 litres and over but less than 300 litres gross internal capacity
05F	. . . 300 litres and over but less than 400 litres gross internal capacity
07B	. . . 400 litres and over but less than 500 litres gross internal capacity
12J	. . . 500 litres and over gross internal capacity

1.3.3 Applicable duty rates are:

Normal	7%
Australia	Free
Canada	3%
LDC	5.5%
LLDC	Free
Pac	Free

1.3.4 In this report, unless otherwise stated, years are March years and dollars values are NZ\$. In tables, column totals may differ from individual figures because of rounding.

1.3.5 The period for considering claims of dumping is 1 November 1999 to 31 October 2000. This was the period for which NZCS data as close as practicable to the date of initiation was available.

- 1.3.6 The applicant claims that material injury commenced in the year ended March 2000 and that injury is threatened. The period over which injury will be considered is 1 April 1997 to 30 September 2000, but may include more recent information if available. The application also refers to a threat of injury and threat will be evaluated if actual injury is not established. In evaluating threat of material injury the investigating team will consider information relating to the likely effect of the allegedly dumped imports in addition to historical information.
- 1.3.7 It should be noted that the inclusion of any information in this report does not indicate that the Ministry necessarily accepts that information or any conclusions arising from it. Any final determination of whether or not goods are dumped and causing injury can be made only after a full investigation carried out in accordance with the Act.

2. NEW ZEALAND INDUSTRY

Section 3A provides the definition of “industry”:

3A. Meaning of “industry”—For the purposes of this Act, the term ‘industry’, in relation to any goods, means—

- (a) The New Zealand producers of like goods; or
- (b) Such New Zealand producers of like goods whose collective output constitutes a major proportion of the New Zealand production of like goods.

“Like goods” is defined in section 3 of the Act:

“Like goods”, in relation to any goods, means—

- (a) Other goods that are like those goods in all respects; or
- (b) In the absence of goods referred to in paragraph (a) of this definition, goods which have characteristics closely resembling those goods:

2.1 LIKE GOODS

2.1.1 In order to establish the existence and extent of the New Zealand industry for the purposes of an investigation into injury, and having identified the subject goods, it is necessary to determine whether there are New Zealand producers of goods which are like those goods in all respects, and if not, whether there are New Zealand producers of other goods which have characteristics closely resembling the subject goods.

2.1.2 The subject goods have been identified in section 1.3 of this Report as:

Household type combined refrigerator-freezers fitted with separate top and bottom external doors or drawers up to and including a total gross volume of 500 litres and single door refrigerators with a total gross volume of not less than 60 litres, the capacities determined by standard AS/NZS4474.1997

New Zealand Production

2.1.3 F&P advises it produces refrigerator-freezers and refrigerators in a range of sizes commencing with the single door model P120 model with a capacity of 115 litres up to the active smart E415H model, which has a capacity of 411 litres. F&P provided catalogues showing details of the full range of refrigerator-freezers and refrigerators it manufactures. The following models are listed in the catalogues:

Model Number	Type	Capacity (litres)	Significant Features
C240B/C240BSS	Fridge-freezer with top mounted refrigerator	246	Automatic defrost, stainless steel option
N169T	Fridge-freezer with bottom mounted refrigerator	172	Frost free, wider door shelves
N249T/N249TSS	Fridge-freezer with bottom mounted refrigerator	248	Frost free, wider door shelves, stainless steel option
C270/C270SS	Single door refrigerator	266	Automatic cyclic defrost, wider door shelves, stainless steel option
P120/P120SS	Single door refrigerator	115	Push button defrost, wider door shelves, stainless steel option
E331T, E381T, E411T, E440T, E415H	Fridge-freezer with bottom mounted refrigerator	329, 380, 411, 404, 411	Frost free, intelligent electronics, butter conditioner (not all models)
E372B, E402B, E442B, E406B	Fridge-freezer with top mounted refrigerator	373, 403, 442, 404	Frost free, intelligent electronics, butter conditioner (not all models)
C365H	Fridge-freezer with top mounted refrigerator	367	Automatic defrost, roll out fruit and vegetable drawer
C370	Single door refrigerator	367	Automatic defrost, humidity controlled fruit and vegetable bin
C450	Single door refrigerator	450	Frost free, humidity controlled fruit and vegetable bin

Imported Goods

2.1.4

F&P has also provided catalogues produced for the New Zealand market showing details of LG and Samsung refrigerator-freezers and refrigerators. These catalogues list the following models:

LG Models			
Model Number	Type	Capacity (litres)	Significant Features
GR293 TBF	Fridge-freezer with bottom mount refrigerator	303	No frost, soft touch drawers in freezer

GR 349SQF	Fridge-freezer with bottom mount refrigerator	305	No frost, neuro fuzzy control system, bottle holder
GR 389SQF	Fridge-freezer with bottom mount refrigerator	346	No frost, neuro fuzzy control system, bottle holder
GR 403S	3 door fridge-freezer with top mount refrigerator	400	No frost, automatic defrost, 4 in 1 compartment
GR 432S	Fridge-freezer with bottom mounted refrigerator	392	No frost, automatic defrost, quick freezing compartment
GR 372S	Fridge-freezer with bottom mounted refrigerator	339	No frost, automatic defrost, quick freezing compartment
GR 282S	Fridge-freezer with bottom mounted refrigerator	245	No frost, automatic defrost
GR 242S	Fridge-freezer with bottom mounted refrigerator	215	No frost, automatic defrost
GR 182S	Fridge-freezer with bottom mounted refrigerator	144	No frost, automatic defrost
GR 131S	Single door refrigerator	95	Separate freezer compartment
GR 151S	Single door refrigerator	129	Separate freezer compartment
Samsung Models			
SR-L628EV	Fridge-freezer with top mounted refrigerator	Not shown	Fuzzy logic climate control, 2 fans & evaporators, frost free, chilled water dispenser
Cool tech SRG V43	Fridge-freezer with bottom mounted refrigerator	390	Frost free, large vegetable drawer with moisture control
Cool tech SRG V33	Fridge-freezer with bottom mounted refrigerator	290	Frost free, large vegetable drawer with moisture control
Cool tech SRG V39	Fridge-freezer with bottom mounted refrigerator	365	Frost free, large vegetable drawer with moisture control
Cool tech SRG V29	Fridge-freezer with bottom mounted refrigerator	260	Frost free, large vegetable drawer with moisture control
SRG 118	Single door refrigerator	96	Separate freezer compartment

2.1.5

It is unclear if the LG and Samsung models represent the entire range imported into New Zealand, but for the purposes of initiation the models listed above give a reasonable picture of the types of product available.

Like Goods Considerations

- 2.1.6 In deciding like goods issues the Ministry takes into account the following considerations:
- a. Physical characteristics, which covers appearance, size and dimensions, components, production methods and technology.
 - b. Function/usage. This covers consumer perceptions/expectations, end uses, and will lead to any conclusions on the issue of substitutability where relevant.
 - c. Pricing structures.
 - d. Marketing issues such as distribution channels and customers advertising.
 - e. Other. This can include tariff classification if applicable, and any other matters which could be applicable in the circumstances.
- 2.1.7 This framework will be used to consider what goods produced in New Zealand are like goods to the allegedly dumped imports.

Physical Characteristics

- 2.1.8 The models detailed in the catalogues have the same general appearance as those produced by F&P. The capacity of the imported models range from 95 to 400 litres. The capacity of the F&P models range from 115 to 450 litres.
- 2.1.9 F&P has not provided any detailed information on the production methods of either the subject goods or its own goods, but is considered unlikely, given the physical similarities, that there are any significant differences in production methods. Any investigation should examine whether there are any significant differences in production methods.
- 2.1.9.1 Technology features such as frost free, automatic defrost, humidity controlled fruit and vegetable bins and computer climate control appear to be present in both the subject goods and the F&P models. Any investigation should, however, examine whether there are any significant differences in the technology used in the subject goods and the F&P models.

Function and Usage

- 2.1.10 No information is available on consumer perceptions or expectations. The end use of the subject goods and the F&P models is obviously the same and it is clear that the F&P models are readily substitutable for the subject goods.

Pricing Structures

- 2.1.11 While F&P are claiming that the subject goods are undercutting its product (see below), the difference in prices is not such as to indicate that the subject goods are a distinctly different product.

Marketing Issues

- 2.1.12 Both the subject goods and the F&P models are distributed through dealers that sell directly to consumers. F&P advises that it has three warehouses from which it supplies its dealers. No information is available on whether importers use a warehousing system or supply direct to dealers, but any difference in the use of warehouses is unlikely to be significant in considering like goods. F&P dealers operate on an exclusive basis, i.e. they stock only F&P product. Media comment by importers of the subject goods indicates that they do not operate on an exclusive basis, but on its own such a difference is not considered to be a significant determinant in deciding a like goods issue in this case.

Other Relevant Matters

- 2.1.13 It is likely that the refrigerator-freezers and refrigerators produced by F&P would be classified under the same tariff item as the subject goods.

Conclusions Relating to Like Goods

- 2.1.14 On the basis of the information available, the Ministry considers that the refrigerator-freezers and refrigerators produced by F&P, while not identical to the subject goods, have characteristics closely resembling the subject goods and are therefore like goods to the subject goods.

2.2 NEW ZEALAND INDUSTRY

- 2.2.1 An investigation may not be initiated unless the Chief Executive is satisfied that the requirements of section 10(3) of the Act are met. These requirements are that the collective output of those New Zealand producers who have, in writing, expressed support for the application constitutes:

- (a) Twenty-five percent or more of the total New Zealand production of like goods produced for domestic consumption (assessed during the most recent representative period, being not less than six months); and
- (b) More than 50 percent of the total production of like goods produced for domestic consumption (as so assessed) by those New Zealand producers who have, in writing, expressed support for or opposition to the application.

- 2.2.2 The application was submitted by Fisher & Paykel Ltd. The Ministry is aware that there is only one manufacturer of household type refrigerator-freezers and refrigerators in New Zealand and research supports this fact. The Ministry is therefore satisfied that F&P has the standing to make an application by or on behalf of the domestic industry.

2.3 IMPORTS OF REFRIGERATORS

- 2.3.1 F&P has provided Statistics New Zealand import volume figures for the March years 1998 to 2000, and the 4 months to-July 1999 and 2000. Statistical keys for imports were amended in 1998 and comparative statistical keys are not

available for 1997. F&P imports small bar type (single door) refrigerators from Daewoo in Korea. F&P advises that the refrigerators it imports from Korea have capacities of 47 litres and 74 litres. The 74 litre refrigerators fall within the definition of subject goods. Based on an analysis of F&P's sales of the refrigerators it imports from Korea, the volume of the subject goods imported by F&P has been estimated at █ percent of its imports from Korea. The remaining █ percent of its imports have been deducted from the Korean import figures. These figures are shown in the table below.

Table 2.1: Import Volumes of Subject Goods
(March Years)

	1998	1999	2000	Apr-Jul 2000
Imports from Korea	12,459	11,645	15,416	6,910
- F&P Korea imports				
Net subject goods				
Other imports	26,593	32,899	33,251	6,383
Total imports				

2.3.2 Section 11(1) of the Act provides that where the Minister is satisfied in respect of some or all of the goods under investigation, that there is insufficient evidence of dumping or injury to justify proceeding with the investigation then the investigation shall be terminated. Section 11(2) of the Act provides that evidence of dumping shall be regarded as insufficient if the volume of imports of dumped goods, expressed as a percentage of total imports of like goods into New Zealand, is negligible, having regard to New Zealand's obligations as a party to the Anti-Dumping Agreement. The Code deals with the negligibility of dumped imports under Article 5:8 as follows:

5.8 An application under paragraph 1 shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case. There shall be immediate termination in cases where the authorities determine that the margin of dumping is *de minimis*, or that the volume of dumped imports, actual or potential, or the injury, is negligible. The margin of dumping shall be considered to be *de minimis* if this margin is less than 2 per cent, expressed as a percentage of the export price. The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3 per cent of imports of the like product in the importing Member, unless countries which individually account for less than 3 per cent of the imports of the like product in the importing Member collectively account for more than 7 per cent of imports of the like product in the importing Member.

2.3.3 The import volume figures in Table 2.1 above show that imports from Korea represented █ percent of all imports in the year ended March 2000 and █ percent of all imports in the 4 months to July 2000.

2.3.4 On the basis of this information, imports of the subject goods from Korea are not negligible.

2.4 NEW ZEALAND MARKET

2.4.1 The import volume figures in the table below were compiled on the same basis as those in Table 2.1 above.

2.4.2 The New Zealand industry's sale figures are those supplied by F&P.

Table 2.2: New Zealand Market
(March Years)

	1998	1999	2000	Apr-Jul 2000
Subject goods				
Other imports	26,593	32,899	33,251	6,383
Total imports				
NZ Industry sales				
NZ Market				

3. EVIDENCE OF DUMPING

Section 3(1) of the Act states:

“Dumping”, in relation to goods, means the situation where the export price of goods imported into New Zealand or intended to be imported into New Zealand is less than the normal value of the goods as determined in accordance with the provisions of this Act, and ‘dumped’ has a corresponding meaning.”

3.1 EXPORT PRICES

3.1.1 Export prices are determined in accordance with section 4 of the Act.

3.1.2 The applicant advises it does not have access to actual export prices and has therefore constructed export prices by starting with retail prices in New Zealand and making deductions to obtain estimated Korean ex-factory prices. The applicant further states that it has extensive knowledge of the costs of distributing imported product in New Zealand.

3.1.3 F&P has provided a constructed export price for four Samsung refrigerator-freezers, one Samsung single door refrigerator, three LG refrigerator-freezers and one LG single door refrigerator. F&P states that it has not endeavoured to calculate export prices for all models imported from Korea as this information is not reasonably available to it.

Retail Prices

3.1.4 F&P obtained the retail prices for Samsung models from a Noel Leeming catalogue, a copy of which was supplied with the application. F&P states that no promotional material was available for LG refrigerators, the prices being obtained from store visits.

Retailer's margin

3.1.5 A retailer's margin of [redacted] percent has been allowed for both Samsung and LG. F&P advises that this margin is based on an analysis of the margins taken by [redacted], on a sample of models sold by [redacted] in June and October 2000. F&P provided details of this margin analysis in its application.

Distributor's Warranty

3.1.6 An amount of [redacted] percent for distributor's warranty costs has been allowed for both Samsung and LG. F&P states that this is the accepted figure for warranty provision in the whiteware business.

Freight from Distributor to Retailer

3.1.7 Amounts of [redacted] percent and [redacted] percent have been allowed for Samsung and LG respectively. F&P states that a nominal amount has been allowed for Samsung as the Samsung distributors, Noel Leeming, warehouse and ship to

their own stores and the cost of freight is therefore covered by the retailer's margin. F&P states that the freight cost for LG is based on its freight costs in Australia, [REDACTED]

Distributor's Advertising

- 3.1.8 An amount of [REDACTED] percent has been allowed for advertising for both Samsung and LG. F&P states that it is an industry norm for distributors to contribute [REDACTED] percent towards retail advertising. In addition F&P states that the distributor also advertises the brand generally and supports retail promotions which makes up the remainder. F&P considers the amount allowed is probably conservative given the low volume and the need for a certain dollar spend to have any impact.

Distributor's Selling and Administration Overhead

- 3.1.9 Amounts of [REDACTED] percent and [REDACTED] percent have been allowed for Samsung and LG respectively. F&P states that this cost is to cover local sales representation and administration costs. F&P states that this cost has been set lower for Samsung because the product is received directly by the retailer. F&P states that the figures are based on a conservative view of their own costs.

Distributor's Net Profit

- 3.1.10 An amount of [REDACTED] percent has been allowed for both Samsung and LG. F&P states that "This is a conservative estimate of the net profit that a distributor would expect to make for their role in the transaction". In support of this estimate F&P has provided a copy of report [REDACTED]

Sea Freight Korea to New Zealand

- 3.1.11 F&P has based the cost of sea freight on its costs of shipping a 40 foot, high cube container from Korea to New Zealand of US\$[REDACTED]. F&P provided a copy of freight invoice relating to its own imports of whiteware from Korea to substantiate this amount. F&P has calculated the cost per refrigerator on the number able to fitted into this type of container, based on its own shipments of equivalent models.

Port Service and Customs Charges

- 3.1.12 F&P states that this amount is based on known costs for a shipment of refrigerators from Korea and provided an invoice to substantiate the amount allowed. F&P further states that the costs are allocated on the basis of one container per shipment, the costs varying for each model depending on the number of refrigerators of each model able to be fitted into a container.

Insurance

- 3.1.13 An amount for insurance has been allowed at [REDACTED] percent for both Samsung and LG. F&P states this is based on known costs for a shipment of refrigerators from Korea.

Import Duty

- 3.1.14 An amount for import duty has been allowed at the current rate for imports of the subject goods from Korea of 5.5 percent.

Freight from Factory to Wharf in Korea

- 3.1.15 An amount of percent has been allowed for both Samsung and LG.

Exchange Rates

- 3.1.16 In its application F&P converted the NZ dollar FOB price to Korean won at the Customs exchange rate effective on 18 September 2000 of 1NZ\$ = 470.07 Korean won. Since then the won has appreciated against the NZ dollar which would have the effect of further reducing the export price in won. For the purposes of initiation the exchange rate at 18 September has been used.

Calculation of Constructed Export Prices

- 3.1.17 The calculation of constructed export prices on the basis set out above is shown in the tables below.

Table 3.1: Constructed Export Prices Samsung

Refrigerator-Freezer Models

Capacity Range (litres)	200-300	200-300	300-400	300-400	300-400
Actual Capacity (litres)	260	285	334	390	401
Korean Model No. Equivalent	SR-2316D	SR-2719D	SR-3219D	SR-3619D	SR-3619D
NZ Model No.	SRGV29	SR30RMC	SR37RMC	SRGV43	SR44RMB
Advertised discounted price	899.95	899.95	999.95	1099.95	1149.95
Less: GST (12.5%)	99.99	99.99	111.11	122.22	127.77
	799.96	799.96	888.84	977.73	1022.18
Less: Retailer's margin (<input type="text"/>)					
Invoice price ex-distributor to retailer					
Less: Warranty (<input type="text"/>)					
Less: Freight (<input type="text"/>)					
Less: Advertising (<input type="text"/>)					
Less: Selling & admin. Overhead (<input type="text"/>)					
Less: Profit (<input type="text"/>)					
Landed cost					
Less: Freight to NZ					
Less: Port Service Charges					
Less: Customs charges					
Less: Insurance (<input type="text"/>)					
Less: Import duty (5.5%)					
Less: Freight to wharf (<input type="text"/>)					
Ex-Factory Export Price (NZ\$)	446.28	437.14	484.65	537.03	563.88
Convert @ NZ\$ = 470.07 won	209,781	205,487	227,819	252,444	265,063
(Customs rate @ 18/9/00)					

Table 3.2: Constructed Export Price Samsung

<i>Single Door Refrigerator</i>	
Capacity (litres)	88
Korean Model No. Equivalent	SR-A0909
NZ Model No.	SRG118
Advertised discounted price	399.95
Less: GST (12.5%)	44.44
	355.51
Less: Retailer's margin (█%)	
Invoice price ex-distributor to retailer	
Less: Warranty (█%)	
Less: Freight (█%)	
Less: Advertising (█%)	
Less: Selling & admin. Overhead (█%)	
Less: Profit (█%)	
Landed cost	
Less: Freight to NZ	
Less: Port Service Charges	
Less: Customs charges	
Less: Insurance (█%)	
Less: Import duty (5.5%)	
Less: Freight to wharf (█%)	
Ex-Factory Export Price (NZ\$)	179.95
Convert @ NZ\$ = 470.07 won	84,588
(Customs rate @ 18/9/00)	

Table 3.3: Constructed Export Prices LG

<i>Refrigerator-Freezer Models</i>			
Capacity Range (litres)	200-300	300-400	300-400
Actual Capacity (litres)	215	339	392
Korean Model No. Equivalent	R-B23DD	R-B31DD	R-B36DD
NZ Model No.	GR242MF	GR372S	GR432S
Advertised discounted price	799.00	1099.00	1199.00
Less: GST (12.5%)	88.78	122.11	133.22
	710.22	976.89	1065.78
Less: Retailer's margin (█%)			
Invoice price ex-distributor to retailer			
Less: Warranty (█%)			
Less: Freight (█%)			
Less: Advertising (█%)			
Less: Selling & admin. Overhead (█%)			
Less: Profit (█%)			
Landed cost			

Less: Freight to NZ			
Less: Port Service Charges			
Less: Customs charges			
Less: Insurance (□%)			
Less: Import duty (5.5%)			
Less: Freight to wharf (□%)			
Ex-Factory Export Price (NZ\$)	354.88	492.85	534.40
Convert @ NZ\$ = 470.07 won	166,818	231,673	251,205
(Customs rate @ 18/9/00)			

Table 3.4: Constructed Export Price LG

<i>Single Door Refrigerator</i>	
Capacity (litres)	95
Korean Model No. Equivalent	R-A10DD
NZ Model No.	GR131S
Advertised discounted price	449.00
Less: GST (12.5%)	49.89
	399.11
Less: Retailer's margin (□%)	
Invoice price ex-distributor to retailer	
Less: Warranty (□%)	
Less: Freight (□%)	
Less: Advertising (□%)	
Less: Selling & admin. Overhead (□%)	
Less: Profit (□%)	
Landed cost	
Less: Freight to NZ	
Less: Port Service Charges	
Less: Customs charges	
Less: Insurance (□%)	
Less: Import duty (5.5%)	
Less: Freight to wharf (□%)	
Ex-Factory Export Price (NZ\$)	185.60
Convert @ NZ\$ = 470.07 won	87,244
(Customs rate @ 18/9/00)	

3.1.18 Export prices for the allegedly dumped goods have been calculated by deduction from retail selling prices in New Zealand, being the information reasonably available to the applicant. The Ministry considers that the information on export prices provided by F&P is sufficient for the purposes of initiation.

3.2 **NORMAL VALUES**

3.2.1 Normal values are determined in accordance with section 5 of the Act.

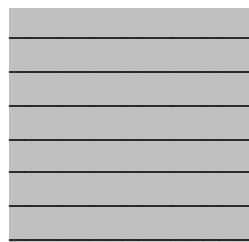
3.2.2 F&P has estimated normal values by deducting costs and margins from retail prices in Korea back to ex-factory. F&P has provided normal value information for four Samsung refrigerator-freezers, one Samsung single door refrigerator, three LG refrigerator-freezers and one LG single door refrigerator, equivalent to the models for which export price information has been provided.

3.2.3 F&P comments that its research suggests that some models exported to New Zealand cannot be directly compared with the models sold on the Korean domestic market although the models are generally very similar. F&P notes that from the dimensions shown in the Korean domestic catalogues it would appear that the refrigerators sold in Korea and exported to New Zealand are similar although there is a difference in the claimed capacities. F&P notes for example that the Samsung model SR-2319D shown in the Korean catalogue has a capacity of 232 litres while the Samsung model SRGV33 which is sold in New Zealand and has the same dimensions has a claimed capacity of 290 litres.

3.2.4 F&P states that it calculates volumes according to AS/NZS4474.1:1997 and notes that the capacity shown in the normal value tables is the capacity claimed in the Korean market. Any investigation will need to consider whether any adjustment is required for physical differences between the models exported to New Zealand and those used to establish normal values.

Retail Prices

3.2.5 F&P advises it visited a number of appliance retailers in Seoul in May 2000 to gain an understanding of the market prices and margins applicable to refrigerators. F&P advises that retail prices were obtained from the following stores:



3.2.6 F&P states that the retail price used as the base normal value was the most common ticket price seen during the store visits. F&P also states that “Where the price varied we have taken the price seen in [redacted]”. F&P also provided prices obtained from Korean catalogues and copies of the relevant parts of the catalogues. The catalogue prices are significantly higher than the retail prices in all cases.

Discounts

3.2.7 An amount of [redacted] percent has been allowed for both Samsung and LG. F&P advises that this discount is based on a discussion with a retailer at [redacted] [redacted] (see also “Retailer’s Margin” below).

Korean Value Added Tax

- 3.2.8 A deduction of ten percent has been made for both Samsung and LG. The Ministry is aware from other investigations involving Korea that a ten percent value added tax exists in Korea.

Retailer's Margin

- 3.2.9 An amount of [] percent has been allowed for both Samsung and LG. F&P states this is based on a discussion with a retailer at [] who revealed that they expect to make between [] and [] percent on refrigerators. F&P notes that the retailer advised that the full [] percent would only be achieved if the full ticket price was gained and the margin would revert to [] percent if the floor discount amounted to [] percent. F&P notes that it has elected to show the full [] percent margin and [] percent discount as a conservative estimate of the full retail margin.

Freight from Factory to Consumer

- 3.2.10 An amount of [] percent has been allowed for both Samsung and LG. F&P states that information obtained by it from sources inside and outside Korea suggests that refrigerators are delivered to the end consumer either direct from the manufacturing site or through regional warehouses that belong to the manufacturer. F&P states it has estimated the freight cost on the basis of the known cost to it in Australia of [] percent plus a [] percent loading to cover delivery into the home and installation. F&P notes that the [] percent cost it incurs in Australia is for delivery from warehouse to the retailer.

Warranty Costs

- 3.2.11 An amount of [] percent has been allowed for both Samsung and LG. F&P states that [] percent is the accepted figure for warranty provision in the whiteware business. F&P notes that a deduction has been made for warranty costs on the basis that this cost is incurred on domestic sales but not on export sales.

Other Costs

- 3.2.12 F&P notes that corporate advertising costs for maintaining the presence of an established brand in the market is [] percent of turnover. No deduction has been made for this amount and the Ministry would not normally make an adjustment for this type of advertising cost, which is incurred regardless of whether an individual sale is made. The applicant also notes that it has not made a deduction for warehouse and distribution costs as they are not costs directly related to sales and are incurred regardless of whether there is a sale.

Calculation of Normal Values

- 3.2.13 The calculation of normal values on the basis set out above is shown in the tables below.

Table 3.5: Estimated Normal Values Samsung

Refrigerator-Freezer Models

Capacity Range (litres)	200-300L	200-300L	300-400L	300-400L
Actual Capacity (litres)	260L	290L	365L	390L
Korea Model No	SR-2319D	SR-2719D	SR-3219D	SR-3619D
New Zealand Model No	SRGV29	SR30RM C	SR37RM C	SRGV43
Catalogue price	398,000	458,000	548,000	638,000
Retail price	320,000	370,000	440,000	512,000
Less discount (█%)				
Less VAT (10%)				
Less retailer's margin (█%)				
Invoice price ex-factory to retailer				
Less: Freight (█%)				
Less: Warranty (█%)				
Ex-factory price	207,825	240,298	285,760	332,521

Table 3.6: Estimated Normal Value Samsung

Single Door Refrigerator

Capacity (litres)	96L
Korea Model No	SR-A0909
New Zealand Model No	SRG118
Catalogue price	209,000
Retail price	183,000
Less discount (█%)	
Less VAT (10%)	
Less retailer's margin (█%)	
Invoice price ex-factory to retailer	
Less: Freight (█%)	
Less: Warranty (█%)	
Ex-factory price	118,850

Table 3.7: Estimated Normal Values LG

Refrigerator-Freezer Models

Capacity Range (litres)	200-300L	300-400L	300-400L
Actual Capacity (litres)	215L	339L	392L
Korea Model No	R-B23DD	R-B31DD	R-B36DD
New Zealand Model No	GR242MF	GR372S	GR432S
Catalogue price	388,000	538,000	628,000
Retail price	315,000	435,000	510,000
Less discount (█%)			
Less: VAT (10%)			

Less: retailer's margin (□%)			
Invoice price ex-factory to retailer			
Less: Freight (□%)			
Less: Warranty (□%)			
Ex-factory price	204,578	282,513	331,222

- 3.2.14 F&P states it was unable to obtain a retail price for an LG single door refrigerator. F&P states that to calculate a normal value for an LG single door refrigerator it has based it on the catalogue price of an LG single door refrigerator of 218,000 won and discounted this by 14 percent. F&P states that the 14 percent discount is the percentage difference between Samsung single door refrigerator catalogue price and the retail price. The Ministry notes that the difference between the relevant Samsung catalogue price and retail price is 12.4 percent (when expressed as a percentage of the catalogue price). However, as a deduction of 12.4 percent would increase the dumping margin, for initiation purposes the adjustment has been left at 14 percent.

Table 3.8: Estimated Normal Value LG
Single Door Refrigerator

Capacity (litres)	96L
Korea Model No	R-A10DD
New Zealand Model No	GR131S
Catalogue price	218,000
Retail price (less 14% of catalogue price)	187,480
Less discount (□%)	
Less VAT (10%)	
Less retailer's margin (□%)	
Invoice price ex-factory to retailer	
Less: Freight (□%)	
Less: Warranty (□%)	
Ex-factory price	121,760

- 3.2.15 The Ministry considers that the information on normal values provided by F&P is sufficient for the purposes of initiation.

3.3 COMPARISON OF EXPORT PRICE AND NORMAL VALUE

- 3.3.1 The following table summarises the information provided on export prices and normal values and shows the margins of dumping.

Table 3.9: Dumping Margins (won)

	NZ Model	Capacity (litres)	Normal Value	Export Price	Dumping Margin	DM as % EP
Samsung	SRG118	<200	118,850	84,588	34,262	41%
	SRGV29	200-300	207,825	209,781	Not Dumped	Not Dumped
	SR30RMC	200-300	240,298	205,487	34,811	17%
	SR37RMC	300-400	285,760	227,819	57,941	25%
	SRGV43	300-400	332,521	252,444	80,077	32%
LG	SR44RMB	400-500	332,521	265,063	67,457	25%
	GR-131S	<200	121,760	87,244	34,516	40%
	GR242MF	200-300	204,578	166,818	37,760	23%
	GR372S	300-400	282,513	231,673	50,840	22%
	GR432S	300-400	331,222	251,205	80,017	32%

3.3.2 The evidence provided shows that the alleged margins of dumping, except for Samsung model SRGV29, are not *de minimis* in terms of Article 5.8 of the Agreement as set out above. The Ministry is satisfied on the basis of the information provided that the comparison of export prices and normal values provides sufficient evidence of dumping for the purposes of initiation in respect of the importation of the subject goods from Korea.

3.3.3 Any investigation will need to give consideration to the provisions of section 4 (export price) and section 5 (normal value) of the Act as they should apply, and in particular to the application of the appropriate adjustments required by section 4(1)(a)(i) and (ii) and section 5(3).

4. EVIDENCE OF INJURY

The basis for considering material injury is set out in section 8(1) of the Act:

8. Material injury to industry—(1) In determining for the purposes of this Act whether or not any material injury to an industry has been or is being caused or is threatened or whether or not the establishment of an industry has been or is being materially retarded by means of the dumping or subsidisation of goods imported or intended to be imported into New Zealand from another country, the [Chief Executive] shall examine—

- (a) The volume of imports of the dumped or subsidised goods; and
- (b) The effect of the dumped or subsidised goods on prices in New Zealand for like goods; and
- (c) The consequent impact of the dumped or subsidised goods on the relevant New Zealand industry.

4.1 IMPORT VOLUMES

Section 8(2)(a) of the Act provides that the Chief Executive shall have regard to the extent to which there has been or is likely to be a significant increase in the volume of imports of dumped or subsidised goods either in absolute terms or in relation to production or consumption in New Zealand.

4.1.1 F&P has provided Statistics New Zealand import volume figures for the March years 1998 to 2000, and the 4 months to July 1999 and 2000. F&P has estimated import volumes from Korea for the year ending March 2001. Statistical keys for imports were amended in 1998 and comparative statistical keys are not available for 1997.

4.1.2 F&P states that some of its model range is manufactured in Australia and it therefore imports those models from Australia. F&P also states that it imports small bar type (single door) refrigerators from Daewoo in Korea and General Electric side by side models from the USA. F&P also advise that it has imported a small number of other models from other countries generally for the purpose of evaluating samples. F&P provided the volume of refrigerators imported from each country from 1998 and a forecast of the volume it intends to import in the year ended 2001.

4.1.3 To estimate the total market for the year ended March 2001, F&P states that it has calculated a total estimated market figure taking into account historical trends, estimated housing starts and demographics. F&P states that the growth in Korean imports has been estimated by annualising the first 4 months of the year ended March 2001. F&P notes that annualising on this basis may understate imports from Korea as in the last two years imports from Korea (and all other countries) in the second 6 months of years ended March have been significantly greater than the first six months. F&P comments that this pattern is driven by seasonal factors and has provided the relevant import volume data to demonstrate this pattern.

4.1.4 The following table shows the volume of imports of the subject goods into New Zealand over the period 1998 to 2000, and for the 4 months to July 2000

compared with the same period the previous year, and compares them with the New Zealand industry's production and with consumption in the New Zealand market. F&P's imports from Korea are shown separately in the table and the analysis is based on Korean imports net of F&P's Korean imports.

Table 4.1: Import Volumes (Units)

	1998	1999	2000	Apr-Jul 99	Apr-Jul 00
Total imports Korea	12,459	11,645	15,416	4,036	6,910
F&P imports from Korea					
Net imports Korea					
Other imports	26,593	32,899	33,251	9,627	6,383
Total imports net F&P Korea imports					
NZ industry sales NZ market					
Change on previous year:					
- Net imports Korea					
- Other imports		+6,306	+352		-3,244
- Total net imports					
- NZ industry sales					
- NZ market					
% change:					
- Net imports Korea		-5.5	+35.0		+86.6
- Other imports		+23.7	+1.1		-33.7
- Total net imports		+15.4	+9.0		-2.9
- NZ industry sales					
- NZ market					
Net imports Korea as a % of:					
- NZ industry sales					
- NZ market					

4.1.5 Based on figures from April to July 2000, the applicant estimates that, for the year ended March 2001, import volumes from Korea (excluding its own imports) will reach 18,582 units.

4.1.6 These figures show that in the year to 31 March 2000, and in the 4 months to July 2000, imports of the subject goods increased significantly in absolute terms and relative to production and consumption in New Zealand.

4.1.7 There is evidence that import volumes of the subject goods have increased significantly in absolute terms and relative to production and consumption in New Zealand.

4.2 PRICE EFFECTS

4.2.1 Price Undercutting

Section 8(2)(b) of the Act provides that the Chief Executive shall have regard to the extent to which the prices of the dumped or subsidised goods represent significant price undercutting in relation to prices in New Zealand (at the relevant level of trade) for like goods of New Zealand producers.

- 4.2.1.1 In considering price undercutting, the Ministry will normally seek to compare prices at the ex-factory and ex-importer's store levels, to ensure that differences in distribution costs and margins do not confuse the impact of dumping.

Samsung

- 4.2.1.2 F&P states that to demonstrate price undercutting it has identified those models which are equivalent to (or close to) F&P models. F&P states that prices for Samsung models include a price increase that became evident in the first week of September 2000. F&P further states that Samsung retail prices have been adjusted to an ex-distributor price and compared with the net invoice price (as of June 2000) of its equivalent models to [REDACTED]

F&P notes that [REDACTED]

- 4.2.1.3 F&P states that it has compared the Samsung model SRGV29, which is a 260 litre frost free model, with both the closest F&P model the N249T which is a 248 litre frost free model, and with its C250T, which is a 248 litre cyclic model. F&P explained that cyclic refrigerators do not automatically defrost the freezer but cost a little less to run. F&P notes that it has included the C250T model in its price comparison as this model has allowed it to limit the material injury caused by the Samsung price undercutting. Subsequent to lodging its application, F&P advised that the price of model SRGV29 had increased. The Ministry has amended the price undercutting table originally lodged by F&P to show the increase in price of this model.

- 4.2.1.4 Details of the prices obtained on the basis outlined above, and the amount of price undercutting, are shown in the table below.

Table 4.2: Price Undercutting Samsung

Samsung Model	SRGV29	SRGV29	SRGV39	SRGV43
Capacity (litres)	260	260	380	390
Price to Dealer	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
F&P Model	N249T	C250T	E381T	E381T
Capacity (litres)	248	248	380	380
Price to Dealer	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Undercutting % F&P Price	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

- 4.2.1.5 F&P considers that the extent of price undercutting has been understated because it has substantially reduced the selling price of some models since the subject goods began taking market share. F&P gives as an example the drop in price to [REDACTED] from September 1999 to June 2000 of its C250T model from [REDACTED] to [REDACTED]

LG

- 4.2.1.6 F&P states it has taken the same approach as that taken with the Samsung models, and notes that the same comments above relating to its model C250T also apply to its price comparison with LG. Details of the price comparison with LG models are shown in the table below.

Table 4.3: Price Undercutting LG

LG Model	GR242MF	GR242MF	GR372S	GR432S
Capacity (litres)	215	215	339	392
Price to Dealer				
F&P Model	N249T	C250T	E331T	E381T
Capacity (litres)	248	248	330	380
Price to Dealer				
Undercutting				
% F&P Price				

4.2.1.7 There is evidence that the prices of the allegedly dumped Samsung imports in the [redacted] sizes ([redacted] litres) are significantly undercutting the prices of the New Zealand industry. In the [redacted] sizes ([redacted] litres), there is either no evidence of price undercutting or evidence of only negligible price undercutting by the allegedly dumped Samsung imports.

4.2.1.8 There is evidence that the prices of the allegedly dumped LG imports are significantly undercutting the prices of the New Zealand industry.

4.2.1.9 The Ministry notes the comment by F&P that it has significantly reduced its prices for some models in response to the allegedly dumped imports and therefore price undercutting is understated. Any investigation will need to consider the extent to which F&Ps selling prices have been suppressed by the allegedly dumped imports and if so, consider whether a price comparison should be made using F&Ps unsuppressed selling prices.

4.2.1.10 Any investigation will also need to consider obtaining information on F&Ps overall average selling prices (rather than prices to one customer) either on a per model or group of similar models basis.

4.2.2 Price Depression

Section 8(2)(c) of the Act provides that the Chief Executive shall have regard to the extent to which the effect of the dumped or subsidised goods is or is likely significantly to depress prices for like goods of New Zealand producers.

4.2.2.1 Price depression occurs when prices are lower than those in a market unaffected by dumping, usually in a previous period.

4.2.2.2 F&P states that imports of the allegedly dumped goods increased substantially in the four months to July 2000 compared with the same period in the previous year. F&P estimates that in the year ended March 2001, imports of the allegedly dumped goods will be more than 20,000 units, which it states will be an increase of nearly 34 percent. F&P states that to offset the loss of volume arising from price undercutting it has reduced its prices to ensure that sufficient volumes are manufactured in its Auckland plant.

4.2.2.3 F&P has provided its average selling prices per unit, excluding stainless steel models, for the four months ended July 1999 and July 2000 to illustrate the depression of its prices which it attributes to the allegedly dumped imports. These prices are shown in the table below.

Table 4.4: Price Depression: Average Selling Prices
(Excluding Stainless Steel Models)

April - July 1999	April - July 2000	Change

4.2.2.4 F&P states that if stainless steel models were included then there would be an increase in the average price. F&P considers that including stainless steel models would not provide a like comparison as stainless steel models were not available in the first four months of 1999.

4.2.2.5 F&P states that the price of its stainless steel models has also been depressed. F&P states that the average price for these models in the year ended March 2000 was [redacted] but by the end of July 2000 this average had reduced to [redacted], a fall of [redacted] percent. F&P states, however, "This average price reduction is because [redacted] [redacted] the revenue lost because of the dumped imports".

4.2.2.6 The Ministry has prepared a table comparing the average price, including stainless steel, for the four months ended July 1999 and July 2000, using information provided by F&P and this is shown in the table below.

Table 4.5: Price Depression: Average Selling Prices
(Including Stainless Steel Models)

April - July 1999	April - July 2000	Change

4.2.2.7 F&P states it introduced a price increase in early October 2000, but notes "[redacted] [redacted]" F&P has prepared a forecast with the full impact of the price increase taking effect and with a nil effect. This forecast is shown in the table below.

Table 4.6: Price Depression: Average
and Forecast Selling Prices (March Years)

Variant	1999 Actual	2000 Actual	2001 Forecast	
			No Price Increase	With Price Increase
White	[redacted]	[redacted]	[redacted]	[redacted]
Stainless	[redacted]	[redacted]	[redacted]	[redacted]
Total	[redacted]	[redacted]	[redacted]	[redacted]

4.2.2.8 F&P states that "Had it not been for the effects of dumping in April 1999 – March 2000 then F&P would have expected to obtain a higher average selling price". F&P further states that "If the price increase (prompted by the adverse currency movement) announced in October 2000 [redacted] [redacted] for "white" refrigerators, reducing the overall profit of the refrigerator business (white and stainless) from [redacted] in YEM [year ended March] 2000 to just under [redacted] in the forecast for 2001".

4.2.2.9 The Ministry is of the view that price depression must be demonstrated taking into account all production of like goods. It is not sufficient to show that the price of only certain models has been depressed, if that price depression is

more than offset by increases in prices in other models. When the overall results are considered, i.e., including both white and stainless models, there is no evidence of price depression, whether whole year March figures or four month to July figures are considered. The Ministry notes that F&P claim that there has a recent decline in the average price of stainless models, but it appears from the statement made by F&P that this results from [REDACTED]. Any investigation should examine whether changes in product mix have affected the average per unit selling price.

4.2.3 Price Suppression

Section 8(2)(c) of the Act also provides that the Chief Executive shall have regard to the extent to which the effect of the dumped or subsidised goods is or is likely significantly to prevent price increases for those goods that otherwise would have been likely to have occurred.

4.2.3.1 The Ministry generally bases its assessment of price suppression on positive evidence, in particular the extent to which cost increases have not been recovered in prices. Cost increases not able to be recovered by price increases will be reflected by an increased ratio of costs to sales revenue. Where cost savings have been made, the lack of any price increase will not normally be regarded as price suppression. While the inability to recover cost increases in prices is the main indicator of price suppression, the Ministry will consider any other factors raised as positive evidence of price suppression.

4.2.3.2 F&P states that prior to the October 2000 price increase it had lowered its prices in order to remain competitive and to ensure that volumes were maintained in the factory. F&P has provided a table comparing prices and costs for the four months ended July 2000 with the same period in 1999. F&P states the figures exclude stainless steel models because these models were not in the market in the April – July 1999 period. The figures are shown in the table below.

Table 4.7: Price Suppression
(Excluding Stainless Steel Models)

	April - July 1999	April - July 2000	Change
Average selling price	[REDACTED]	[REDACTED]	[REDACTED]
Cost of production	[REDACTED]	[REDACTED]	[REDACTED]
Gross margin	[REDACTED]	[REDACTED]	[REDACTED]
Other costs	[REDACTED]	[REDACTED]	[REDACTED]
Total costs	[REDACTED]	[REDACTED]	[REDACTED]
As a % of sales			
- cost of production	[REDACTED]	[REDACTED]	[REDACTED]
- other costs	[REDACTED]	[REDACTED]	[REDACTED]
- total costs	[REDACTED]	[REDACTED]	[REDACTED]

4.2.3.3 F&P provided the following table showing actual and forecast prices and costs showing separate data when stainless models are included and excluded.

Table 4.8: Price Suppression
(Years Ended March)

	1998	1999	2000 Actual		2001 Forecast No Price Increase		2001 Forecast With Price Increase	
	Actual	Actual	Excluding S/S	Including S/S	Excluding S/S	Including S/S	Excluding S/S	Including S/S
Average selling price								
Cost of production								
Gross margin								
Other costs								
Total costs								
As a % of sales:								
- cost of production								
- other costs								
- total costs								

4.2.3.4 F&P states that in 1999 its refrigeration business incurred some difficulties with the new door styling and manufacturing problems associated with its active smart refrigerators. F&P states that this resulted in a fall in gross margin of [redacted] meaning the cost of production increased significantly between 1998 and 1999. F&P provided an extract from its 1999 annual report to substantiate this point, although the annual report refers to an adverse impact of \$8 million before tax resulting from lost sales and additional costs. Because of this F&P considers that costs in 2000 should be compared with those in 1998 to give a true indication of the impact of dumping.

4.2.3.5 [redacted]
[redacted]
[redacted] F&P further states that [redacted]
[redacted] there will still be a significant increase in total costs relative to sales especially when compared with 1998.

4.2.3.6 Total sales in 1999 were [redacted]. The [redacted] fall in gross margin amounts to [redacted] per unit. Assuming that the average selling price was not affected by the production problems, the impact of the production problems would be to increase the cost of production by [redacted]. If the cost of production for 1999 is adjusted by [redacted], cost of production falls to [redacted] percent of sales, and total costs fall to [redacted] percent of sales. On this basis there has been only a small increase in costs of production as a percentage of sales from 1999 to 2000, when stainless steel models are considered. On the same basis, when total costs are considered as a percentage of sales, there has been no change from 1999 to 2000. Any investigation will need to consider whether 1999 costs figures, adjusted for the impact of the new door production problems, can be used as a base year to assess the impact of dumping, and if so, how the 1999 figures should be adjusted.

4.2.3.7 When the 2000 costs in relation to sales are compared with the 1998 figures, as F&P consider they should, then there is evidence that prices have been suppressed. The forecast figures, even with the price increase staying in place, indicate there will be a significant increase in costs as a percentage of sales.

Conclusion on Price Effects

4.2.4 There is sufficient evidence of price undercutting and price suppression. There is not sufficient evidence of price depression.

4.3 ECONOMIC IMPACT

Section 8(2)(d) of the Act provides that the Chief Executive shall have regard to the economic impact of the dumped or subsidised goods on the industry, including—

- (i) Actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; and*
- (ii) Factors affecting domestic prices; and*
- (iii) The magnitude of the margin of dumping; and*
- (iv) Actual and potential effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments.*

4.3.1 Output and Sales

4.3.1.1 F&P advises that production closely follows sales. [REDACTED]

4.3.1.2 [REDACTED] F&P notes that this is because it has responded to price undercutting by reducing its prices

4.3.1.3 The following table shows actual sales volumes.

Table 4.9: Sales Volume
(Years Ended March)

	1998	1999	2000	Apr-Jul 2000
White	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Stainless	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

4.3.1.4 As noted above, the Ministry considers that injury must be assessed in relation to financial data covering all like goods. The table shows no decline in total sales volume.

4.3.1.5 F&P has estimated its sales volume for the year ended March 2001 at [REDACTED] for white models and [REDACTED] for stainless steel models for a total of [REDACTED]. F&P states that the forecast loss of volume for white products is primarily due to the surge in imports in the four months to July 2000 and its forecast of an increase in imports to around 20,000 units for the year ended March 2001. F&P notes that its forecast of import volumes for the year ended March 2001 will represent an increase of around 5,000 units from the year ended March

2000. F&P states that “This forecast of the threat of loss of sales has taken into account the provisions of Article 3.7 of the Agreement:

- A significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation.
- Increased demand through the price depressing and suppressing effect of the imports.”

4.3.1.6 F&P states that the price undercutting by Korean imports would have resulted in substantial volume loss had it not responded by reducing its selling prices. F&P states that “This reduction in selling price together with the loss of volume has substantially reduced F&P’s revenues for white sales. These revenues have been propped up by the higher average selling prices of the stainless models”. F&P has provided the following actual sales revenue figures:

Table 4.10: Sales Revenue (\$000)
(Years Ended March)

	1998	1999	2000	Apr-Jul 2000
White				
Stainless				
Total				

4.3.1.7 As noted previously, the Ministry considers that injury must be assessed in relation to financial data covering all like goods. The table shows no decline in total sales revenue.

4.3.1.8 As noted under price depression in section 4.2 above, F&P advises that it introduced a price increase in early October 2000, but notes that it is too early to assess whether the price increase will hold until the end of March 2001. F&P has also provided forecasts of its sales revenue on the basis of no price increase and with a price increase. Both of these forecasts show an increase in total revenue.

4.3.1.9 F&P states that “In the absence of the effects of dumping in YEM 2000, F&P would have expected that its revenues would have been higher. With the imports forcing F&P’s refrigerator prices down there was a measurable impact on F&P’s overall revenue in YEM 2000”.

4.3.1.10 While F&P has stated that revenues would have been higher in the absence of the allegedly dumped imports, it has not quantified that impact or even stated that it would be material, just that it would be “measurable”.

4.3.1.11 There is not sufficient evidence of an actual or potential decline in the New Zealand industry’s sales volumes and revenues.

4.3.2 Market Share

4.3.2.1 The analysis of market share must take account of changes in the growth of the market as a whole. A decline in the share of the market held by the domestic industry in a situation where the market as a whole is growing will not necessarily indicate that injury is being caused to the domestic industry, particularly if the domestic industry’s sales are also growing.

4.3.2.2 F&P states that it has been forced to protect its market share by reducing prices. F&P notes that the introduction of stainless steel models in the year ended March 2000 [REDACTED]

4.3.2.3 The table below shows actual market share and changes in market share, showing both white and stainless steel figures separately and in total. As noted above under import volumes, F&P's imports from Korea are shown separately in the table and the analysis is based on Korean imports net of F&P's Korean imports.

Table 4.11: Market Share (Years Ended March)

	1998	1999	2000	Apr-Jul 99	Apr-Jul 00
NZ Market					
- Excluding s/s	[REDACTED]				
- Including s/s	[REDACTED]				
Domestic Production					
- Excluding s/s	[REDACTED]				
- Stainless	[REDACTED]				
Total Domestic Production	[REDACTED]				
Imports					
- Korea	12,459	11,645	15,416	4,036	6,910
- F&P Korea imports	[REDACTED]				
- Net imports Korea	[REDACTED]				
- Other countries	26,593	32,899	33,251	9,627	6,383
Total net imports	[REDACTED]				
Change from prior period:					
NZ Market					
- Excluding s/s	[REDACTED]				
- Including s/s	[REDACTED]				
Domestic Production					
- Excluding s/s	[REDACTED]				
- Stainless	[REDACTED]				
Total Domestic Production	[REDACTED]				
Imports					
- Net imports Korea	[REDACTED]				
- Other countries	+6,306	+352			-3,244
Total net imports	[REDACTED]				
% market share (ex-s/s) held by:					
Imports					
- Net imports Korea	[REDACTED]				
- Other countries	[REDACTED]				
Total imports	[REDACTED]				
Domestic Production					
- Excluding s/s	[REDACTED]				
% market share (inc-s/s) held by:					
- Net imports Korea	[REDACTED]				
- Other countries	[REDACTED]				
Total imports	[REDACTED]				
Total Domestic Production	[REDACTED]				

- 4.3.2.4 As noted variously above, the Ministry considers that injury must be assessed in relation to data covering all like goods. When total domestic production is considered, the table shows that while the allegedly dumped imports have increased their market share, this has largely been at the expense of imports from other countries. The market share held by the New Zealand industry declined from 1998 to 1999. From 1999 the market share held by the New Zealand industry has been at about the same level when total production figures are considered. There is no evidence of a significant decline in the market share held by the New Zealand industry over the period since injury is claimed to have commenced.
- 4.3.2.5 F&P has provided a market share forecast for the year ended March 2001. This forecast shows a decline in F&P's market share, taking account of total production, to █ percent, but this decline is not apparent in the first 4 months of that year (i.e., from April to July 2000).
- 4.3.2.6 There is not sufficient evidence that an actual decline in the New Zealand industry's market share has occurred. F&P has forecast a decline in market share for the year ended March 2001 but this forecast decline is not apparent in the first four months of that year.
- 4.3.3 **Profits**
- 4.3.3.1 Changes in net profits reflect changes in prices, sales volumes or costs. Dumped or subsidised imports can impact on any or all of these. If possible, the extent of any decline in profit will be measured against the level achieved in the period immediately preceding the commencement of the dumping.
- 4.3.3.2 In an investigation, the Ministry's assessment of the impact of dumped imports is based on an examination of trends in actual profits in order to establish whether or not there is an actual or potential decline in profits. In some circumstances it may be possible to determine that injury is being caused where profits are not declining, but that would depend on the circumstances of the case, and would need to be based on positive evidence. Such an impact would also need to be attributable to the dumping of imports.
- 4.3.3.3 F&P states that imports of the allegedly dumped goods in the four months to July 2000 have increased by more than 70 percent compared with the same four months in 1999 and this has had a dramatic effect on the profitability of its refrigeration business █
█
- 4.3.3.4 The table below shows an analysis of the actual earnings before interest and tax, showing both white and stainless steel figures separately and in total.

Table 4.12: Earnings Before Interest and Tax (\$000)
(Years Ended March)

	1998	1999	Apr-Jul 99	Apr- Jul 00	2000
EBIT (\$000')					
- Excl s/s					
- Incl s/s					
As a % of revenue:					
- Excl s/s					

- Incl s/s		
Per Unit:		
- Excl s/s		
- Incl s/s		
Change from prior period:		
- EBIT excl s/s	-	
- EBIT incl s/s	-	
Change from 1998 EBIT:		
- Excl s/s		
- Incl s/s		

4.3.3.5 F&P states that the fall in EBIT in 1999 resulted from the production problems referred to previously (see paragraph 4.2.3.4 above under price suppression). There is evidence that profits have declined significantly in total, relative to sales revenue and per unit, in 2000 (compared to 1998) and in the 4 months ended July 2000 (compared to the same period the previous year). This decline in EBIT coincides with a significant increase in import volumes of the subject goods.

4.3.3.6 F&P has forecast EBIT for the year ended March 2001, on the basis of [redacted] Without a price increase [redacted] With a price increase a profit is forecast but is significantly lower than the profit for 2000 and 1998.

4.3.3.7 There is sufficient evidence of a significant decline in profits.

4.3.3.8 The Ministry also notes that in the 4 months ended July 2000, there was a [redacted] The forecasts for the year ended March 2001, [redacted] F&P has commented that its stainless steel models have, [redacted] indicating that factors other than the allegedly dumped goods may be affecting F&P's results [redacted], and this should be considered in any investigation.

4.3.4 **Productivity**

4.3.4.1 F&P states that it has not addressed the relationship between the output of goods and the inputs of resources used to produce them, as it considers it has already provided sufficient evidence for initiation of actual material injury and threat of material injury.

4.3.5 **Return on Investments**

4.3.5.1 A decline in return on investments will result from a decline in returns with or without a relative increase in the investment factor being used. Movements in the return on investments affect the ability of the industry to retain and attract investment.

4.3.5.2 F&P comments that it has not yet completed the apportionment of fixed assets to the refrigerator business to allow a meaningful comment at this stage. F&P states that “It is evident, however, that the rapid reduction in EBIT will result in the return on investment being substantially less”.

4.3.6 **Utilisation of Production Capacity**

4.3.6.1 The utilisation of production capacity reflects changes in the level of production, although in some cases it will arise from an increase or decrease in production capacity. In either case, a decline in the utilisation of production capacity will lead to an increase in the unit cost of production, and a consequent loss of profit.

4.3.6.2 F&P states that “This is not expected to change given F&P’s move to protect volume market share”.

4.3.7 **Other Adverse Effects**

4.3.7.1 In considering other adverse effects, the Ministry considers actual and potential effects on cash flow, inventory, employment, wages, growth, ability to raise capital, and investment.

4.3.7.2 F&P states that it recognises that dumped imports can have a measurable impact on the factors listed above. F&P considers for the purpose of initiation, however, there is sufficient evidence of injury for initiation without addressing all the factors referred to above.

4.3.7.3 F&P comments that it employs [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

4.4 **OTHER CAUSES OF INJURY**

Sections 8(2)(e) and (f) of the Act provide that the Chief Executive shall have regard to factors other than the dumped goods which have injured, or are injuring, the industry, including—

- (i) The volume and prices of goods that are not sold at dumped prices; and
- (ii) Contraction in demand or changes in the patterns of consumption; and
- (iii) Restrictive trade practices of, and competition between, overseas and New Zealand producers; and
- (iv) Developments in technology; and
- (v) Export performance and productivity of the New Zealand producers; and

the nature and extent of importations of dumped or subsidised goods by New Zealand producers of like goods, including the value, quantity, frequency and purpose of any such importations.

Non-dumped Imports

4.4.1 F&P states that “Prior to the dumping imports from Australia provided F&P with a level of competition normally expected between suppliers. The price

undercutting of the dumped imports has meant that Australian suppliers have had to reduce their prices to meet the dumped Korean prices and have substituted some of their models with OEM [original equipment manufacturer] branded models made in Korea (e.g. Westinghouse)".

- 4.4.2 The market share table shows that imports from other countries increased significantly from 1998 to 1999 and from 1999 to 2000 were at about the same level. In the 4 months ended July 2000, the market share held by imports from other countries declined significantly, the decline in market share being taken up by imports from Korea. The evidence indicates that imports from other countries have not increased significantly in the period from when material injury is claimed to have commenced.

Demand or Consumption Changes

- 4.4.3 F&P has made no comment on demand or consumption changes. The Ministry is not aware of any demand or consumption changes that have had an adverse impact on the New Zealand industry.

Restrictive Trade Practices

- 4.4.4 F&P states that "There is no evidence of restrictive trade practices of and competition between, overseas and New Zealand producers". The Ministry is not aware of this factor having an adverse impact on F&P.

Developments in Technology

- 4.4.5 F&P states "There is no evidence of technology developments that are relevant". The Ministry is not aware of any developments in technology that have had an adverse impact on the New Zealand industry.

Export Performance

- 4.4.6 F&P states that "The material injury analysis has excluded F&P's export business and there is therefore no evidence of F&P's export business impacting on the domestic business".
- 4.4.7 The Ministry is aware of comment in the media by various parties that F&P has had problems with forward foreign exchange contracts on its export earnings. The significance of this should be considered in any investigation.

Imports by the Industry

- 4.4.8 F&P states that "F&P imports refrigerators from Australia. Other imports are related to sample shipments". As noted above in section 4.1 F&P also imports small single door refrigerators from Korea. Some of the refrigerators imported from Korea by F&P fall within the definition of the subject goods and some do not. The Ministry notes that the refrigerators F&P imports from Australia are not subject goods (not being from Korea). Some of F&P's imports from Korea and Australia consequently do not fall within the scope of section 8(2)(f) of the Act. The subject goods that F&P's imports from Korea have been excluded in considering import volume effects and economic impact in this report.

Other Factors

Forward Exchange Contracts

- 4.4.9 The Ministry is aware of comment by various parties reported in the media, that F&P has suffered injury through not obtaining forward exchange rate cover for the cost of imported materials used in its manufacturing process. Any investigation should examine whether this has been a cause of injury to F&P.

Exclusive Dealer Arrangements

- 4.4.10 F&P operates Exclusive Dealer Arrangements (EDA) with 259 of the 625 retail outlets known to F&P in New Zealand. F&P notes that in 1990 it appealed against a Commerce Commission decision that ruled against the EDA and “was successful in demonstrating that the EDA did have positive competitive effects”. F&P cites the following from the High Court judgement:

F&P is nevertheless significantly constrained by its competitors. It has lost significant share of the market as a result of tariff and import barriers being removed; it is facing fierce competition in the marketplace because normal barriers to entry are low and there are now no longer any artificial barriers to entry, at least for Australian imports.

In the absence of unofficial barriers to entry, EDC (exclusive dealing clause) can have positive pro-competitive effects on the market.

- 4.4.11 The Ministry is aware of media comment by some retailers that F&P’s EDA has resulted in sales being lost by F&P as those retailers are unable to stock F&P product and other brands at the same time. Any investigation should examine whether F&P’s exclusive dealer policy has been a cause of injury to F&P.

- 4.4.12 F&P notes that [REDACTED]

4.5 CONCLUSIONS RELATING TO INJURY

- 4.5.1 There is sufficient evidence that import volumes of the subject goods have increased significantly in absolute terms and relative to production and consumption in New Zealand.

- 4.5.2 There is sufficient evidence that prices are being undercut, and that prices are being suppressed. There is insufficient evidence of price depression.

- 4.5.3 There is sufficient evidence that there has been a consequent economic impact in the form of a significant decline in profits.

- 4.5.4 There is no evidence of actual decline in the industry’s sales volume and revenue and market share.

- 4.5.5 The industry considers there is no evidence that factors other than dumping have contributed to the injury suffered by F&P but other parties have commented in the media that F&P's exclusive dealer arrangement and forward exchange contracts (or lack of forward exchange contracts on import costs) have had an adverse impact on F&P.

5. CONCLUSIONS

- 5.1 On the basis of the information available, it is concluded that, for the purposes of initiation, there is sufficient evidence that :
- (a) Refrigerators and refrigerator-freezers from Korea are being dumped;
and
 - (b) By reason thereof material injury to the industry is being caused.

6. RECOMMENDATIONS

It is recommended on the basis of the conclusions reached and in accordance with section 10 of the Dumping and Countervailing Duties Act 1988:

- (a) that the Chief Executive of the Ministry of Economic Development formally initiate an investigation to establish whether imports of refrigerators and refrigerator-freezers from Korea are being dumped and are causing or threatening to cause material injury to the New Zealand industry producing like goods; and
- (b) that the Chief Executive of the Ministry of Economic Development sign the attached *Gazette* Notice, and give notice to interested parties in accordance with section 9 of the Act.

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Investigating Team
Trade Remedies Group